

REMARKS

Applicant has amended claim 1 and added claims 69-81 to better describe the claimed invention. In accordance with 37 C.F.R. § 1.121, Applicant is providing a marked up version (Appendix A) of claim 1 showing all changes relative to the previous version of this claim. No new matter has been added by these amendments and new claims, which are fully supported by the specification and the original claims. *See, e.g.*, page 3, lines 15-17; page 7, lines 7-10; and Figs. 1-5. Claims 1-81 are pending. Applicant respectfully requests that the Examiner reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

1. 35 U.S.C. § 102(b)

The Office Action rejects claims 1-3, 5-7, 19, 24-25, 32-35, 40, 46, 50, 55-57, 61, 66, and 68 under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,682,604 to Kashi et al. (“Kashi”). Particularly, the Office Action states that “Kashi discloses a base station for providing a forward channel, a remote station for monitoring ‘listening or sensing’ the forward channel signal and monitoring reserve channel during a clear ‘free’ channel access interval and providing reserve channel signal if it’s clear ‘free.’” *See* Office Action, page 2, paragraph 3, lines 3-7 (particular Kashi references omitted). Applicant respectfully disagrees and traverses this rejection.

In order for a claim to be rejected as anticipated by a reference, that reference must disclose each and every element of the claimed invention. MPEP § 2131 (citations omitted). Applicant maintains that Kashi does not disclose each and every element of independent claims 1, 32, 55, and 68.

Particularly, claim 1, as amended, recites:

“... a remote station that ... monitors a reverse channel within a clear channel assessment interval and *in sequential order* with at least one other remote station .
...” (Emphasis added)

As discussed in the specification, each remote station monitors a reverse channel within a clear channel assessment interval and if the channel is clear during this time, that remote station can transmit data. *See, e.g.*, Specification, page 9, lines 2-5. The remote stations listen *in sequential order*, eliminating the probability of collisions caused by simultaneous transmissions from remote stations. *See, e.g.*, Specification, page 3, lines 15-17.

Kashi, however, does not disclose sequential monitoring. Instead, the system disclosed in Kashi requires that each remote terminal unit ("RTU") monitors and receives data (*e.g.*, address, identity number, and priority parameter) from other RTUs on a channel. Therefore, Kashi's RTUs all monitor the channel at the same time during channel assessment. For example, Kashi requires that a first RTU be able to receive and understand the data from a transmitting ("second") RTU, so that a comparison of priority numbers can be made between the first and second RTUs. This comparison is then used to calculate a period, only at the expiration of which, does the first RTU assess whether or not the transmitting channel is free. *See, e.g.*, Kashi, col. 2, lines 26-40; col. 4, line 22 to col. 5, line 54; and Fig. 5. If the channel is occupied by another (third) RTU at that time, the first RTU repeats the comparison and calculation steps, and then waits again before further monitoring.

The claimed system comprises a remote station that monitors a reverse channel in sequential order with other remote stations. That is, plural remote stations monitor a reverse channel one after another at a time as specified in a sequential order. As stated in Applicant's reply filed April 23, 2001, the claimed invention does not require that a remote station receive data over the reverse channel from any of the other remotes stations. One advantage is that the invention operates successfully under adverse conditions where a reverse channel signal received from another remote is not of sufficient quality to receive useful data, which is likely to be detrimental to Kashi's system. Accordingly, Kashi does not disclose ". . . a remote station that . . . monitors a reverse channel within a clear channel assessment interval and in sequential order with at least one other remote station" Therefore, Applicant maintains that claim 1 is not anticipated by Kashi and respectfully requests that the Examiner withdraw the rejection.

Independent claims 32, 55, and 68 each similarly claim a remote station monitoring a reverse channel at an *assigned predetermined time* within a clear assessment interval. However, Kashi RTUs begin monitoring and assessing a transmission channel, as outlined above, only after sensing that a central unit has ceased transmission on a receiving channel. *See* Kashi, column 3, lines 28-34. As such, the time at which channel monitoring and assessment begins at a Kashi RTU is at least dependent on or determined by the expiration, *i.e.*, duration, of the central unit transmission and the priority values received from other RTUs attempting to transmit. Therefore, monitoring and assessment will occur at varying times and not at an assigned predetermined time as claimed. Accordingly, Applicant maintains that Kashi

does not disclose all the claimed limitations of claims 32, 55, and 68. Applicant respectfully requests that the Examiner withdraw the rejection of these claims.

Because Applicant submits that independent claims 1, 32, 55, and 68 are not anticipated by Kashi, the rejection of dependent claims 2-3, 5-7, 19, 24-25, 33-35, 40, 46, 50, 56-57, 61, and 66 under 35 U.S.C. § 102(b) is rendered moot. Thus, Applicant respectfully requests the Examiner to withdraw the rejection of claims 1-3, 5-7, 19, 24-25, 32-35, 40, 46, 50, 55-57, 61, 66, and 68.

2. 35 U.S.C. § 103(a)

The Office Action rejects claims 4, 8-18, 23, 26-31, 36-39, 41-45, 49-54, 58-60, 62-63, 65, and 67 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Kashi in view of U.S. Patent No. 5,677,909 to Heide. Moreover, the Office Action rejects claims 20-22, 47-48, and 64 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Kashi in view of U.S. Patent No. 5,299,198 to Kay.

In order to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some motivation or suggestion to make the proposed combination or modification of the references. Second, the teaching or suggestion to make the claimed combination must be found in the prior art, and not based on the Applicant's disclosure. Third, the references, when combined, must teach or suggest all claim limitations. MPEP § 2142 (citations omitted). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. MPEP § 2143.03.

Applicant maintains that the Office Action fails to establish a *prima facie* case of obviousness because Kashi, either taken alone or in combination, does not teach or suggest all the limitations in independent claims 1, 32, 55, and 68. *See*, 35 U.S.C. § 102(b) remarks, *supra*. Therefore, Applicant maintains that the rejections of dependent claims 4, 8-18, 20-23, 26-31, 36-39, 41-45, 47-54, 58-60, 62-65, and 67 under 35 U.S.C. § 103 (a) are moot. Applicant respectfully requests that the Examiner withdraw these rejections.

3. New Claims

New claims 69-81 have been submitted for entry. Applicant maintains that the cited references, either taken alone or in combination, do not disclose or suggest all of the claimed limitations, particularly, at least the limitation reciting "a monitor for monitoring a forward channel signal and monitoring a reverse channel at an assigned predetermined time

within a clear assessment interval" in claims 69-75 and the limitation reciting "a receiver for receiving a reverse channel signal from a remote station after said remote station detects that said reverse channel is clear during a predetermined time in a channel assessment interval" in claims 76-81.

CONCLUSION

Applicant respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution might be advanced by discussing the application with Applicant's representatives, in person or over the telephone, we would welcome the opportunity to do so.

Applicant is submitting herewith a Petition for Three-Month Extension of Time and a Request for Continued Examination Transmittal sheet. A check in the amount of \$1029 is included to cover the RCE fee (\$370); additional claims fee (\$199); and three-month extension fee (\$460). In the event of any variance between the amount enclosed and the fees determined by the U.S. Patent and Trademark Office to enter the foregoing amendments and remarks, and to maintain the present application as pending, please charge or credit any such variance to the undersigned's Deposit Account No. 50-1640.

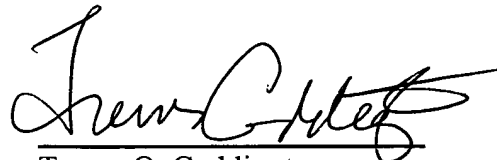
Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

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Brobeck, Phleger & Harrison LLP
1333 H Street N.W., Suite 800
Washington, D.C. 20005
Tel: (202) 220-6000
Fax: (202) 220-5200

By:



Trevor Q. Coddington
Registration No. 46,633
For: Cono A. Carrano
Registration No. 39,623

APPENDIX A

1. (twice amended) A system, comprising:
a base station that provides a forward channel signal; and
a remote station that monitors said forward channel signal, monitors a reverse channel [during] within a clear channel assessment interval and in sequential order with at least one other remote station, and provides a reverse channel signal when said reverse channel is clear.